



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE
International Trade Administration
[A-570-831]

Fresh Garlic from the People's Republic of China: Preliminary Results of the Nineteenth Antidumping Duty Administrative Review; 2012-2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) is conducting the nineteenth administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) covering the period of review (POR) November 1, 2012, through October 31, 2013.¹ We preliminarily determine that the two mandatory respondents in this review, Hebei Golden Bird Trading Co., Ltd. (Golden Bird) and Jinxiang Hejia Co., Ltd. (Hejia), each failed to establish that it is separate from the PRC-wide entity. As a result, the PRC-wide entity is now under review.² We are preliminarily applying adverse facts available (AFA) to the PRC-wide entity because elements of the entity, Golden Bird and Hejia, failed to cooperate by not acting to the best of their ability to comply with the Department's requests for information. The Department is preliminarily determining that seven companies are entitled to a separate rate. Finally, the Department is also preliminarily determining that 16 companies made no shipments during the POR. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties to

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 79392 (December 30, 2013) (*Initiation Notice*).

² On November 4, 2013, the Department announced a change in practice with respect to the condition review of the NME entity. See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Proceedings*, 78 FR 65963 (Nov. 4, 2013). The change in practice is not applicable in this administrative review.

comment on these preliminary results.

DATES: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.)

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 482-5255.

Scope of the Order

The merchandise covered by the order includes all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.³

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice.⁴ The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic

³ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance regarding "Decision Memorandum for the Preliminary Results and Preliminary Rescission of the 2012-2013 Antidumping Duty Administrative Review: Fresh Garlic from the People's Republic of China," dated concurrently with these results and hereby adopted by this notice ("Preliminary Decision Memorandum"), for a complete description of the Scope of the Order.

⁴ See Preliminary Decision Memorandum.

Service System (ACCESS).⁵ ACCESS is available to registered users at <http://access.trade.gov> and to all parties in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building. In addition, parties can obtain a complete version of the Preliminary Decision Memorandum on the Internet at <http://trade.gov/enforcement/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

PRC-Wide Entity

The two mandatory respondents, Golden Bird and Hejia, each failed to respond to the Department's requests for information and/or declined to participate in this review and therefore, each failed to establish eligibility for separate rate status. Accordingly, the Department preliminarily finds that the PRC-wide entity includes these companies. Elements of the entity failed to provide necessary information for the Department to conduct a review. Accordingly, the Department has relied on facts available.⁶ Further, the Department finds that the PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with a request for information. Therefore, pursuant to section 776(b) of the Act, the Department used an adverse inference when selecting from among the facts otherwise available.⁷ Thus, the Department relied on AFA in order to determine a margin for the PRC-wide entity, pursuant to sections 776(a)(1), 776(a)(2)(A), (B), (C) and 776(b) of the Act.⁸

⁵ On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System ("IA ACCESS") to AD and CVD Centralized Electronic Service System ("ACCESS"). The website location was changed from <http://iaaccess.trade.gov> to <http://access.trade.gov>. The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

⁶ See sections 776(a)(1) and (2)(A) - (C) of the Act.

⁷ See section 776(b) of the Act.

⁸ See Preliminary Decision Memorandum at the sections pertaining to "PRC-Wide Entity" and "Selection of Adverse Facts Available (AFA) Rate" for a discussion of the AFA rate.

On May 29, 2014, the Department rescinded this review for companies for whom requests for review were withdrawn and which had a separate rate from a prior segment of this proceeding.⁹ The Department finds that 92 of the companies whose review requests were withdrawn had not been assigned a separate rate from a prior segment of the proceeding, and thus are considered part of the PRC-wide entity. Further, an additional 30 companies for which a review was requested, and not withdrawn, did not file a separate rate application or certification, nor did they file a no shipments certification.¹⁰ Accordingly, because these companies did not demonstrate their eligibility for a separate rate, the Department preliminarily determines that they are also part of the PRC-wide entity. A full list of companies preliminarily determined to be part of the PRC-wide entity can be found in Appendix II.

Preliminary Determination of Separate Rates for Non-Selected Companies

In accordance with section 777A(c)(2)(B) of the Act, the Department employed a limited examination methodology, as it determined that it would not be practicable to examine individually all companies for which a review request was made. There were seven exporters of subject merchandise from the PRC that have demonstrated their eligibility for a separate rate but which were not selected for individual examination in this review. These seven exporters of subject merchandise that have demonstrated their eligibility for a separate rate, but which were not selected for an individual examination in this review are: Chengwu County Yuanxiang Industry & Commerce Co, Ltd.; Jinxiang Richfar Fruits and Vegetables Co., Ltd.; Qingdao Lianghe International Trade Co., Ltd., Shandong Chenhe International Trading Co., Ltd. ; Shenzhen Xinboda Industrial Trading Co., Ltd.; Weifang Hongqiao International Logistics Co., Ltd.; and XuZhou Simple Garlic Industry Co., Ltd.

⁹ See *Fresh Garlic From the People's Republic of China: Partial Rescission of the 19th Antidumping Duty Administrative Review*; 2012-2013, 79 FR 30819 (May 29, 2014).

¹⁰ See the Preliminary Decision Memorandum at the sections pertaining to "PRC-Wide Entity."

Neither the Act nor the Department's regulations address the establishment of the rate applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs the Department to use rates established for individually investigated producers and exporters, excluding any rates that are zero, *de minimis*, or based entirely on facts available in investigations. Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis*, or based entirely on facts available, the Department may use “any reasonable method” for assigning a rate to non-examined respondents. The weighted-average margin preliminarily determined for the individually-examined respondents in this review is based entirely on facts available. For the preliminary results, the Department has preliminarily determined to assign a rate of 1.82 U.S. dollars per kilogram, which is the rate for separate rate companies for the most recently completed (18th) administrative review.¹¹

Preliminary Determination of No Shipments

The companies listed in Appendix I timely filed “no shipment” certifications stating that they had no entries of subject merchandise during the POR.¹² Consistent with its practice, the Department asked CBP to conduct a query of potential shipments made by these companies.

¹¹ See *Fresh Garlic From the People's Republic of China: Preliminary Results and Partial Rescission of the 18th Antidumping Duty Administrative Review; 2011-2012*, 79 FR 36721 (June 30, 2014) (*2011-2012 Garlic Final*). See also *Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011).

¹² The Department notes that Jinxiang Merry Vegetable Co., Ltd. and Cangshan Qingshui Vegetable Foods Co., Ltd., companies who participated in the November 1, 2012, to April 30, 2013 new shipper review (see, e.g., *Fresh Garlic From the People's Republic of China: Final Results of the Semiannual Antidumping Duty New Shipper Review of Jinxiang Merry Vegetable Co., Ltd. and Cangshan Qingshui Vegetable Foods Co., Ltd.; 2012-2013*, 79 FR 62103 (October 16, 2014)) certified that it had not shipments between May 1, 2013 and October 31, 2013.

CBP did not provide evidence that contradicted the parties' no shipment claims. Based on the certifications by these companies and our analysis of CBP information, we preliminarily determine that the companies listed in Appendix I did not have any reviewable transactions during the POR. In addition, the Department finds that consistent with its refinement to its assessment practice in non-market economy (NME) cases, further discussed below, it is appropriate not to rescind the review in part in these circumstances but to complete the review with respect to these 16 companies and issue appropriate instructions to CBP based on the final results of the review.¹³ Preliminary Results of Review

Regarding the administrative review, the Department preliminarily determines that the following weighted-average dumping margins exist for the period November 1, 2012, through October 31, 2013:

Exporter	Weighted-Average Margin (dollars per kilogram)
Chengwu County Yuanxiang Industry & Commerce Co., Ltd.	1.82
Jinxiang Richfar Fruits & Vegetables Co., Ltd.	1.82
Qingdao Lianghe International Trade Co., Ltd.	1.82
Shandong Chenhe International Trading Co., Ltd.	1.82
Shenzhen Xinboda Industrial Co., Ltd.	1.82
Weifang Hongqiao International Logistics Co., Ltd.	1.82
XuZhou Simple Garlic Industry Co., Ltd.	1.82
PRC-Wide Rate	4.71

Public Comment & Opportunity to Request a Hearing

Unless otherwise notified by the Department, interested parties may submit written comments (case briefs) no later than 30 days after the date of publication of these preliminary results of review and rebuttal comments (rebuttal briefs) within five days after the time limit for

¹³ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011); see also "Assessment Rates" section below.

filing case briefs.¹⁴ Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and, (3) a table of authorities.¹⁵

Any interested party may request a hearing within 30 days of publication of this notice.¹⁶ Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case and rebuttal briefs.¹⁷ If a party requests a hearing, the Department will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing.

The Department intends to issue the final results of this review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁸ The Department will direct CBP to assess rates based on the per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of review.

¹⁴ See 19 CFR 351.309(c)(1)(ii) and (d)(1).

¹⁵ See 19 CFR 351.309(c)(2), (d)(2).

¹⁶ See 19 CFR 351.310(c).

¹⁷ *Id.*

¹⁸ See 19 CFR 351.212(b).

Also, the Department announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for merchandise that was not reported in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.*, at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide rate.¹⁹

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) for the companies listed above, the cash deposit rate will be the rate established in these final results of review (except, if the rate is zero or *de minimis*, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 4.71 U.S. dollars per kilogram; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These requirements, when imposed, shall remain in effect until further notice.

¹⁹ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

Dated: December 1, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Companies That Have Certified No Shipments

1. Cangshan Qingshui Vegetable Foods Co., Ltd.
2. Chengwu County Yuanxiang Industry & Commerce Co., Ltd.
3. Jinan Farmlady Trading Co., Ltd.
4. Jining Yifa Garlic Produce Co., Ltd.
5. Jining Yongjia Trade Co., Ltd.
6. Jinxiang Chengda Import & Export Co., Ltd.
7. Jinxiang Merry Vegetable Co., Ltd.
8. Jinxiang Yuanxin Import & Export Co., Ltd.
9. Shenzhen Bainong Co., Ltd.
10. Shijazhuang Goodman Trading Co., Ltd.
11. Qingdao Maycarrier Import & Export Co., Ltd.
12. Qingdao Sea-line International Trading Co.
13. Qingdao Tiantaixing Foods Co., Ltd.
14. Qingdao Xiangtiangfeng Foods Co., Ltd. or Xi Tian Feng
15. Xuzhou Simple Garlic Industry Co., Ltd.
16. Yantai Jinyan Trading Inc.

Appendix II

List of Companies Subject to the PRC-Wide Rate

1. American Pioneer Shipping
2. Anhui Dongqian Foods Ltd.
3. Anqiu Friend Food Co., Ltd.
4. Anqiu Haoshun Trade Co., Ltd.
5. APM Global Logistics (Shanghai) Co., Ltd.
6. APS Qingdao
7. Chiping Shengkang Foodstuff Co., Ltd.
8. CMEC Engineering Machinery Import & Export Co., Ltd.
9. Dalian New Century Food Co., Ltd.
10. Dongying Shunyifa Chemical Co., Ltd.
11. Dynalink Systems Logistics (Qingdao) Inc.
12. Eimskip Logistics Inc.
13. Feicheng Acid Chemicals Co., Ltd.
14. Foshan Fuyi Food Co, Ltd.
15. Frog World Co., Ltd.
16. Golden Bridge International, Inc.
17. Goodwave Technology Development Ltd.
18. Guangxi Lin Si Fu Bang Trade Co., Ltd
19. Hangzhou Guanyu Foods Co., Ltd.
20. Hebei Golden Bird Trading Co., Ltd.
21. Hejiahuan (Zhongshan) Electrical AP
22. Henan Weite Industrial Co., Ltd.
23. Heze Ever-Best International Trade Co., Ltd. (f/k/a Shandong Heze International Trade and Developing Company)
24. Hongkong Golden Eagle Group Ltd.
25. Hongqiao International Logistics Co.
26. Intecs Logistics Service Co., Ltd.
27. IT Logistics Qingdao Branch
28. Jinan Solar Summit International Co., Ltd.
29. Jinan Yipin Corporation Ltd.
30. Jining De-Rain Trading Co., Ltd.
31. Jining Highton Trading Co., Ltd.
32. Jining Jiulong International Trading Co., Ltd.
33. Jining Tiankuang Trade Co., Ltd.
34. Jining Trans-High Trading Co., Ltd.
35. Jinxiang County Huaguang Food Import & Export Co., Ltd.
36. Jinxiang Dacheng Food Co., Ltd.
37. Jinxiang Dongyun Freezing Storage Co., Ltd. (a/k/a Jinxiang Eastward Shipping Import and Export Limited Company)
38. Jinxiang Dongyun Import & Export Co., Ltd.
39. Jinxiang Fengsheng Import & Export Co., Ltd.
40. Jinxiang Grand Agricultural Co., Ltd.

41. Jinxiang Hejia Co., Ltd.
42. Jinxiang Infarm Fruits & Vegetables Co., Ltd.
43. Jinxiang Meihua Garlic Produce Co., Ltd.
44. Jinxiang Shanyang Freezing Storage Co., Ltd.
45. Jinxiang Shenglong Trade Co., Ltd.
46. Jinxiang Tianheng Trade Co., Ltd.
47. Jinxiang Tianma Freezing Storage Co., Ltd.
48. Jinxiang Xian Baishite Trade Co., Ltd. (a/ k/a Jinxiang Best Trade Co., Ltd.)
49. Juye Homestead Fruits and Vegetables Co., Ltd.
50. Kingwin Industrial Co., Ltd.
51. Laiwu Fukai Foodstuff Co., Ltd.
52. Laiwu Jiahe Fruit and Vegetable Co., Ltd.
53. Laizhou Xubin Fruits and Vegetables
54. Linshu Dading Private Agricultural Products Co., Ltd.
55. Linyi City Hedong District Jiuli Foodstuff Co.
56. Linyi City Kangfa Foodstuff Drinkable Co., Ltd.
57. Linyi Katayama Foodstuffs Co., Ltd.
58. Linyi Tianqin Foodstuff Co., Ltd.
59. Ningjin Ruifeng Foodstuff Co., Ltd.
60. Qingdao Apex Shipping Co., Ltd.
61. Qingdao BNP Co., Ltd.
62. Qingdao Cherry Leather Garment Co., Ltd.
63. Qingdao Chongzhi International Transportation Co., Ltd.
64. Qingdao Everfresh Trading Co., Ltd.
65. Qingdao Liang He International Trade Co., Ltd.
66. Qingdao Lianghe International Trade Co., Ltd.
67. Qingdao Saturn International Trade Co., Ltd.
68. Qingdao Sino-World International Trading Co., Ltd.
69. Qingdao Winner Foods Co., Ltd.
70. Qingdao XinTian Feng Food Co., Ltd.
71. Qingdao Yuankang International
72. Qufu Dongbao Import & Export Trade Co., Ltd.
73. Rizhao Huasai Foodstuff Co., Ltd.
74. Samyoung America (Shanghai) Inc.
75. Shandong Chengshun Farm Produce Trading Co., Ltd.
76. Shandong Chenhe Intl Trading Co., Ltd.
77. Shandong China Bridge Imports
78. Shandong Dongsheng Eastsun Foods Co., Ltd.
79. Shandong Garlic Company
80. Shandong Longtai Fruits and Vegetables Co., Ltd.
81. Shandong Sanxing Food Co., Ltd.
82. Shandong Wonderland Organic Food Co., Ltd.
83. Shandong Xingda Foodstuffs Group Co., Ltd.
84. Shandong Yipin Agro (Group) Co., Ltd.
85. Shanghai Ever Rich Trade Company
86. Shanghai Goldenbridge International Co., Ltd.

87. Shanghai Great Harvest International Co., Ltd.
88. Shanghai LJ International Trading Co., Ltd.
89. Shanghai Medicines & Health Products Import/Export Co., Ltd.
90. Shanghai Yijia International Transportation Co., Ltd.
91. Shenzhen Fanhui Import & Export Co., Ltd.
92. Shenzhen Greening Trading Co., Ltd.
93. Shenzhen Xunong Trade Co., Ltd.
94. Sunny Import & Export Limited
95. Tangerine International Trading Co.
96. T&S International, LLC.
97. Taian Eastsun Foods Co., Ltd.
98. Taian Fook Huat Tong Kee Pte. Ltd.
99. Taian Solar Summit Food Co., Ltd.
100. Taiyan Ziyang Food Co., Ltd.
101. Tianjin Spiceshi Co., Ltd.
102. U.S. United Logistics (Ningbo) Inc.
103. V.T. Impex (Shandong) Limited
104. Weifang Chenglong Import & Export Co., Ltd.
105. Weifang He Lu Food Import & Export Co., Ltd.
106. Weifang Hong Qiao International Logistics Co., Ltd.
107. Weifang Jinbao Agricultural Equipment Co., Ltd.
108. Weifang Naike Foodstuffs Co., Ltd.
109. Weifang Shennong Foodstuff Co., Ltd.
110. Weihai Textile Group Import & Export Co., Ltd.
111. WSSF Corporation (Weifang)
112. Xiamen Huamin Import Export Company
113. Xiamen Keep Top Imp. and Exp. Co., Ltd.
114. Xinjiang Top Agricultural Products Co., Ltd.
115. XuZhou Heiners Agricultural Co., Ltd.
116. Yishui Hengshun Food Co., Ltd.
117. You Shi Li International Trading Co., Ltd.
118. Zhangzhou Xiangcheng Rainbow Greenland Food Co., Ltd.
119. Zhengzhou Dadi Garlic Industry Co., Ltd.
120. Zhengzhou Huachao Industrial Co., Ltd.
121. Zhengzhou Xiwannian Food Co., Ltd.
122. Zhengzhou Xuri Import & Export Co., Ltd.
123. Zhengzhou Yuanli Trading Co., Ltd.
124. Zhong Lian Farming Product (Qingdao) Co., Ltd.

Appendix III

List of Topics Discussed in the Preliminary Decision Memorandum

Preliminary Rescission of Review
Separate Rate Determination
Separate Rate for Non-Selected Companies
Preliminary Determination of No Shipments
PRC-Wide Entity

[FR Doc. 2014-28688 Filed 12/05/2014 at 8:45 am; Publication Date: 12/08/2014]